

1 **REMARKS**

2 The final Office Action of July 24, 2006, has been carefully considered.
3 Claims 1-20 are pending in the application.
4

5 **35 U.S.C. §102 Claim Rejections**

6 Claims 1-3, 6, 8, 9-10, 12, and 16-18 were rejected under 35 U.S.C.
7 §102(b) as being anticipated by Altiris RapidInstall, version 3.0, "Release Notes"
8 (hereinafter the RapidInstall Release Notes). Claims 7 and 11 were also rejected
9 under 35 U.S.C. §102(b) as being anticipated by the RapidInstall Release Notes.

10 In overview, for Claim 1 and its dependent Claims 2-3 and 6-8, the
11 Examiner contends that under the broadest reasonable interpretation of the claims
12 *the RapidInstall environment* is a "command line operating environment". In
13 support of this position, the Examiner states that the RapidInstall environment
14 provides "*command line functionality and is an environment/program/software,*
15 *which operates*". In the Examiner's opinion, the claims do not require anything
16 more. However, in order for RapidInstall Release Notes to anticipate Claims 1-3
17 and 6-8 under 35 U.S.C. §102 every element of the claimed invention *must be*
18 *identically disclosed* either expressly or under principles of inherency in the
19 reference.

20 The Applicant disagrees with the Examiner's position. The following
21 remarks traverse the Examiner interpretation for the "command line operating
22 environment" and provide an analysis of references that refute the Examiner's
23 position.
24
25

1 On page 8 of the Office Action, the Examiner contends that the passage
2 within the RapidInstall Release Notes which states that “you can use the –si
3 command line” discloses RapidInstall as a command line operating environment.
4 The Applicant traverses this contention based on a RapidInstall User Guide that
5 corresponds to the RapidInstall Release Notes. The RapidInstall User Guide,
6 submitted in a supplemental IDS along with this Response, was obtained from the
7 Altiris website.

8 Chapter 6 of the RapidInstall User Guide begins on page 45 and is entitled
9 “Command Line Switches”. The RapidInstall User Guide states the following:

10 “The **RapidInstallWizard (orWinchnge.exe)** gathers information
11 about your PC during the Set Baseline (Pass 1) and Build RIP (Pass
12 2) processes. It captures any changes that occur on a PC after you
13 have installed an application on it. Based on those changes,
14 WinChnge.exe builds a RapidInstall Package (or RIP). **You can run**
15 **the RapidInstall Wizard as a standalone application** without
16 running RapidInstall Editor (RapidInstall.exe). The **RapidInstall**
17 **Wizard has its own set of switches**, which are described below...”
18 (emphasis added)

19 Therefore, as described in the RapidInstall User Guide, the RapidInstallWizard is
20 an application (i.e., executable file WinChnge.exe). WinChnge builds a
21 RapidInstall Package (or RIP). On page 9 of the RapidInstall User Guide, a
22 RapidInstall Package is described as follows:

23 “RapidInstall creates a **selfcontained executable file called a**
24 **RapidInstall Package (RIP)** that can be quickly distributed to target
25 PCs anywhere in the organization.” (emphasis added)

1 Thus, the RIP files are also executable files. When the RapidInstallWizard creates
2 RIP files, a name is provided for the RIP file. On page 46 of the RapidInstall User
3 Guide, a Table is provided that describes switches that can be used in conjunction
4 with a RIP executable file. The “-si” switch cited by the Examiner appears within
5 the Table on page 48 of the RapidInstall User Guide. As shown, the “-si” switch
6 is supplied after the RIP executable filename, such as `rip.exe -si :`
7 `c:\temp\outfile.txt`, where `outfile.txt` is a filename for a log file.

8 Interestingly, one will note that the self-contained executable filename is
9 entered on a command line provided by some operating environment. An
10 operating environment is commonly referred to as an environment in which users
11 run programs (see attached definition obtained from Webopedia on the Internet).
12 Typically, an operating environment is associated with a specific operating
13 system. An operating environment may sometimes be referred to as a control
14 program. However, a control program is defined (see attached definition obtained
15 from Webopedia on the Internet) as *a program that enhances an operating system*
16 *by creating an environment in which you can run other programs.*

17 Based on the foregoing remarks, the RIP executable file is entered on a
18 command line provided by an operating environment. The RIP executable file
19 does *not* provide an environment in which you can *run other programs*. The only
20 program that can be run is the RIP executable file. Thus, the RIP executable file is
21 not an “operating environment.”

22 Thus, in contrast with the Examiner’s position, the RapidInstall Release Notes
23 actually discloses using a traditional command line environment where commands
24 (i.e., executable files) incorporate all the desired functionality and the command line
25 environment only supports entry of commands and switches on a command line.

1 Therefore, the Examiner's conclusion that the RapidInstall environment provides
2 "command line functionality and is an environment/program/software, which
3 operates" is incorrect and not supported by the cited art. Instead, *the RapidInstall*
4 *environment does not provide command line functionality, but rather executes via*
5 *a command line provided by a command line operating environment.*

6 Thus, given that the exclusion of just one of these claimed elements from
7 the RapidInstall Release Notes is enough to negate anticipation by that reference
8 for independent Claim 1, the Applicant respectfully submits that, for at least the
9 reasons above, the §102 rejection of independent Claim 1 and its dependent Claims
10 2-3, 6, and 8 is improper, and respectfully requests reconsideration and withdrawal
11 of this rejection.

12 In addition, the dependent claims of Claim 1 (e.g., Claims 2-3, 6, and 8)
13 include other elements that are also not disclosed by the RapidInstall Release
14 Notes. Therefore, the Applicant respectfully submits that the §102 rejections of
15 Claims 2-3, 6, and 8 is improper, and respectfully requests reconsideration and
16 withdrawal of this rejection.

1 **Independent Claim 9 and its dependent claims, Claims 10-12**

2 Independent Claim 9 is allowable over the RapidInstall Release Notes based
3 on similar reasoning as discussed above for independent Claim 1, and therefore the
4 Applicant has not repeated the arguments, but rather argues that the same arguments
5 apply as discussed above. In addition, the dependent claims of Claim 9 (e.g.,
6 Claims 10-12) include additional features that are also not taught or suggested by
7 the RapidInstall Release Notes. Therefore, the Applicant respectfully submits that
8 the §102 rejections of Claims 9-12 is improper, and respectfully requests
9 reconsideration and withdrawal of this rejection.
10

11 **Independent Claim 16 and its dependent claims, Claims 17-18**

12 Independent Claim 16 is allowable over the RapidInstall Release Notes based
13 on similar reasoning as discussed above for independent Claim 1, and therefore the
14 Applicant has not repeated the arguments, but rather argues that the same arguments
15 apply as discussed above. In addition, the dependent claims of Claim 16 (e.g.,
16 Claims 17-18) include additional features that are also not taught or suggested by
17 the RapidInstall Release Notes. Therefore, the Applicant respectfully submits that
18 the §102 rejections of Claims 16-18 is improper, and respectfully requests
19 reconsideration and withdrawal of this rejection.
20

21 **35 U.S.C. §103 Claim Rejections**

22 Claims 7 and 11 were alternatively rejected under 35 U.S.C. §103(a) as
23 obvious over the RapidInstall Release Notes. Claims 4, 5, 13-15, 19, and 20 were
24 rejected under 35 U.S.C. §103(a) as being unpatentable over the RapidInstall
25

1 Release Notes in view of Applicant Admitted Art (APA). The Applicant
2 respectfully disagrees with this rejection for various reasons.

3 The Applicant disagrees that the Applicant's traverse of the Official Notice
4 of claims 4-5, 13-15, and 19-20 is not adequate. While the Applicant
5 acknowledges that a general allegation that the claims define a patentable
6 invention without any reference to the examiner's assertion of official notice is
7 inadequate, this is not what occurred in the prior Office Action. Instead, the
8 Applicant identified the noticed facts and stated that the noticed facts were not
9 considered to be common knowledge or well-known in the art. The applicant
10 stated that the Examiner was using the teachings of the present application to
11 provide obviousness. Therefore, the Examiner must now provide documentary
12 evidence if the rejection is to be maintained.

13 In addition, Claims 4, 5, 7, 11, 13-15, 19, and 20 are allowable over the
14 RapidInstall Release Notes based on similar reasoning as discussed above for
15 independent Claim 1, and therefore the Applicant has not repeated the arguments,
16 but rather argues that the same arguments apply as discussed above. In addition,
17 these claims include additional features that are also not taught or suggested by the
18 RapidInstall Release Notes. Therefore, the Applicant respectfully submits that the
19 §103 rejections of Claims 4, 5, 7, 11, 13-15, 19, and 20 is improper, and
20 respectfully requests reconsideration and withdrawal of this rejection.

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Respectfully Submitted,

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Attachment A: Operating Environment definition (4 pages)
Attachment B: Control Program definition (3 pages)

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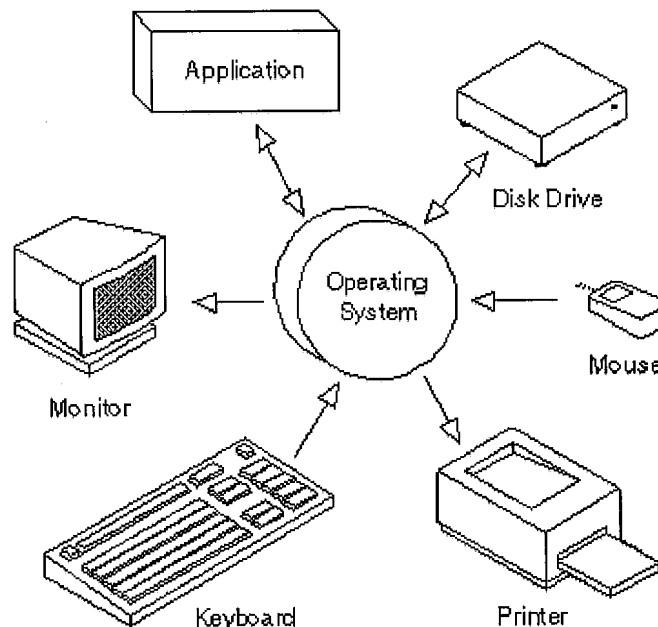
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operating environment

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The environment in which users run programs. For example, the DOS environment consists of all the DOS commands available to users. The Macintosh environment, on the other hand, is a graphical user interface that uses icons and menus instead of commands.

There is a thin line between operating environments and shells. Historically, shells are the interfaces to operating systems. They do not actually add any new capabilities; they simply provide a better user interface. So-called intelligent shells, however, actually extend an



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operating system's capabilities, so there is little difference between intelligent shells and operating environments.

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control program

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(1) A program that enhances an operating system by creating an environment in which you can run other programs.

Control programs generally provide a graphical interface and enable you to run several programs at once in different windows.

Control programs are also called operating environments.

(2) Another term for *operating system*.

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